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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,279	05/31/2001	Eugene C. Nelson	32668	8624
116 7590 11/16/2007 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER LOFTIS, JOHNNA RONEE	
			ART UNIT 3623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/871,279

Applicant(s)

NELSON, EUGENE C.

Examiner

Johnna R. Loftis

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/28/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,6 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6 and 12-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The following is a final office action upon examination of application number 09/871279. Claims 1, 3, 6, 12-23 are pending and have been examined on the merits discussed below.

#### ***Response to Arguments***

2. Applicant's arguments, with respect to previous objections to claims 19-21 have been fully considered and are persuasive. The objections of claims 19-21 have been withdrawn.

3. Applicant's arguments, with respect to the rejection(s) of claim(s) 1 and 3 under 35 USC 102(b) and claims 6 and 12-21 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Abdoh, US 6,564,207, Peters et al US 5.893.098, Gisby US 5,943,416, and Mitchell et al US 5,164,981. Abdoh teaches a method of automated data collection, analysis and reporting wherein questionnaires are stored in a database and presented to respondents. The questionnaires are directed toward health care and results are stored and presented (column 2, line 54 – column 4, line 13). Abdoh also teaches a feature wherein the control unit places calls to the respondents for completion of questionnaires (column 4, lines 31-33). Peters et al teaches branched-to-questions. Gisby teaches an automated survey system wherein interactive voice response is used to collect responses from survey respondents. In addition, Mitchell et al, US 5,164,981, has been introduced. Mitchell et al teaches transferring from a voice response system to an operator wherein the history of

what has thus far occurred during the call is transferred to the operator as well. The transfer is based on decisional criteria.

4. Applicant's arguments with respect to objections to claims 19-21 have been fully considered and are persuasive. The objections to claims 19-21 have been withdrawn.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 22 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abdoh, US 6,564,207, in view of Peters et al, US 5,893,098

As per **claim 1**, Abdoh teaches a communication device that initiates establishment of a communication channel between the system and a survey participant for presenting a question to the survey participant about a product, a service or a product and a service with which the survey participant has experience (column 4, lines 31-33 - control unit places calls to respondents; column 2, lines 54-65 - surveys are presented to respondents regarding health care service); a server for serving a first questioning series of core item questions developed to elicit feedback from the survey participant regarding the product service or product and service (column 3, lines 33-47 – the questionnaire is “read” to the respondent); a database for storing survey participant answers to said core item questions and/or said drill-down questions communicated to the system via the

communication channel established for presenting the question to the survey participant (column 3, lines 62-67 – respondent answers are stored in a database); and a survey presentation unit for automatically formatting and presenting said survey participant answers as a survey result to a user (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

Abdoh does not explicitly teach drill-down questions presented only when a response to the associated core question meets specified criterion. As the time of the invention it was well known to utilize drill-down or branched-to questions. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since Abdoh teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

As per **claim 22**, Abdoh teaches the communication device is an automated outgoing call device that dials a programmed series of participant telephone numbers at scheduled times (column 4, lines 31-33).

As per **claim 23**, Abdoh teaches a communication device that automatically initiates an outgoing telephone call in an attempt to establish a communication channel between the system and a survey participant who recently received health care (column 4, lines 31-33 - control unit places calls to respondents; column 2, lines 54-65 - surveys are presented to respondents regarding health care service); a server for serving a first

questioning series of core item questions developed to elicit feedback from the survey participant regarding a plurality of areas of performance for rating the survey participant's experience in receiving health care (column 3, lines 33-47 – the questionnaire is “read” to the respondent; column 2, lines 54-65 – patient satisfaction surveys); a database for storing survey participant answers to said core item questions and/or said drill-down questions communicated to the system via the communication channel established for presenting the question to the survey participant (column 3, lines 62-67 – respondent answers are stored in a database); and a survey presentation unit for automatically formatting and presenting said survey participant answers as a survey result to a user (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

Abdoh does not explicitly teach drill-down questions presented only when a response to the associated core question meets specified criterion. As the time of the invention it was well known to utilize drill-down or branched-to questions. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since Abdoh teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

7. **Claim 3, 6 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abdoh, US 6,564,207 and Peters et al, US 5,893,098, further in view of Gisby, US 5,943,416

As per **claim 3**, while Abdoh teaches an interactive voice response unit that “reads” the questions to respondents, the combination of Abdoh and Peters et al does not explicitly teach the system includes a voice recorder for recording said verbatim answers given by survey participant, wherein said recorded verbatim answer is stored in said database by said system. Gisby teaches an automated survey system wherein interactive voice response is used to collect responses from survey respondents (column 4, lines 4-67). Since interactive voice response units were well known at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the combination of Abdoh and Peters et al to include an interactive voice response unit that records answers given by survey participants in addition to "reading" survey questions as taught in Abdoh. The inclusion of the interactive voice response unit for collecting survey responses yields the predictable result of processing more respondents in shorter amount of time without having to employ mass numbers of live survey collectors.

As per **claim 6**, Abdoh teaches initiating a process of establishing communication with a survey participant (column 4, lines 31-33 - control unit places calls to respondents); presenting multiple (including first and second) core item questions about a product, a service, or a product and a service with which the survey participant has experience to the survey participant and recording a response to the first core item question in a database (column 2, lines 54-65 - surveys are presented to respondents regarding health care service; column 3, lines 62-67 – respondent answers are stored in a

database); and automatically compiling and presenting a survey report to a user, said survey report utilizing the answers collected from said survey participant for said report (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

Abdoh does not explicitly teach automatically interpreting the first core item response for meeting a specified criterion and presenting drill-down questions presented only when a response to the associated core question meets specified criterion. As the time of the invention it was well known to utilize drill-down or branched-to questions. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since Abdoh teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

Abdoh teaches an interactive voice response unit that "reads" the questions to respondents, the combination of Abdoh and Peters et al does not explicitly teach the system includes recording verbatim answers given by survey participant, wherein said recorded verbatim answer is stored in said database by said system. Gisby teaches an automated survey system wherein interactive voice response is used to collect responses from survey respondents (column 4, lines 4-67). Since interactive voice response units were well known at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the combination of Abdoh and Peters et al to include an



interactive voice response unit that records answers given by survey participants in addition to "reading" survey questions as taught in Abdoh. The inclusion of the interactive voice response unit for collecting survey responses yields the predictable result of processing more respondents in shorter amount of time without having to employ mass numbers of live survey collectors.

As per **claim 12**, Abdoh teaches an interactive voice response unit that "reads" the questions to respondents, the combination of Abdoh and Peters et al does not explicitly teach the system includes recording verbatim answers given by survey participant, wherein said recorded verbatim answer is stored in said database by said system. Gisby teaches an automated survey system wherein interactive voice response is used to collect responses from survey respondents (column 4, lines 4-67). Since interactive voice response units were well known at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the combination of Abdoh and Peters et al to include an interactive voice response unit that records answers given by survey participants in addition to "reading" survey questions as taught in Abdoh. The inclusion of the interactive voice response unit for collecting survey responses yields the predictable result of processing more respondents in shorter amount of time without having to employ mass numbers of live survey collectors.

8. **Claims 13-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Abdoh US 6,564,207, Peters et al US 5,893,098, and Gisby US 5,943,416, further in view of Mitchell et al US 5,164,981.

As per claim 13, the combination of Abdoh, Peters et al and Gisby does not explicitly teach a display for presenting said questions to an agent, wherein said system monitors said answers of the participant and switches to a manual survey mode if the participant requests a transfer to said manual survey mode or said system switches to said manual survey mode in response to an evaluation of one or more of said answers of the participant or in response to a lack of an expected answer of the participant, and wherein the server serves the same question to the agent that said server would automatically present to the participant so that the agent can present said same question to the participant. Mitchell et al teaches transfer from a voice response system to an operator terminal based on decisional criteria wherein the voice response unit transfers the transaction history of what has thus far occurred to the operator terminal (column 3, lines 15-34). Since Abdoh, Peters et al and Gisby are all directed toward automated survey systems, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to include the transfer of information from the interactive voice response system to the live operator based on some criteria to achieve the predictable results of providing a seamless survey presentation.

As per **claim 14**, Abdoh teaches the user is validated by said system prior to said survey result (column 3, lines 17-31 – a validation process takes place to ensure the respondent is given the correct questionnaire).

As per **claim 15**, Abdoh teaches a list of core item questions about a product, a service or a product and a service with which the survey participant has experience (column 2, lines 54-65 - surveys are presented to respondents regarding health care service); contacting a survey participant (column 4, lines 31-33 - control unit places calls

to respondents); automatically presenting one or more of said core item questions to the survey participant (column 2, lines 54-65 - surveys are presented to respondents regarding health care service); automatically storing an answer of the survey participant to said one or more of the core item questions in a database (column 3, lines 62-67 – respondent answers are stored in a database); using said answers in said database for generating a survey report (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

Abdoh does not explicitly teach drill-down questions, wherein each one of said drill-down questions is associated with one or more of said core item questions and is associated with one or more different ones of said drill-down questions.. As the time of the invention it was well known to utilize drill-down or branched-to questions. Peters et al teaches the use of "branched-to-questions" in a survey wherein different survey questions are presented based on previous responses. Since Abdoh teaches survey presentation wherein respondents complete surveys in response to health care, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Abdoh to include branched-to-, or drill-down, questions as taught in Peters et al. The combination would have yielded the predictable results of eliminating irrelevant questions and saving time.

Abdoh teaches an interactive voice response unit that "reads" the questions to respondents, the combination of Abdoh and Peters et al does not explicitly teach the system includes recording verbatim answers given by survey participant, wherein said recorded verbatim answer is stored in said database by said system. The combination also fails to teach automatically transferring from automated to manual survey. Gisby

teaches an automated survey system wherein interactive voice response is used to collect responses from survey respondents (column 4, lines 4-67). Since interactive voice response units were well known at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the combination of Abdoh and Peters et al to include an interactive voice response unit that records answers given by survey participants in addition to "reading" survey questions as taught in Abdoh. The inclusion of the interactive voice response unit for collecting survey responses yields the predictable result of processing more respondents in shorter amount of time without having to employ mass numbers of live survey collectors.

The combination of Abdoh, Peters et al and Gisby does not explicitly teach a display for presenting said questions to an agent, wherein said system monitors said answers of the participant and switches to a manual survey mode if the participant requests a transfer to said manual survey mode or said system switches to said manual survey mode in response to an evaluation of one or more of said answers of the participant or in response to a lack of an expected answer of the participant, and wherein the server serves the same question to the agent that said server would automatically present to the participant so that the agent can present said same question to the participant. Mitchell et al teaches transfer from a voice response system to an operator terminal based on decisional criteria wherein the voice response unit transfers the transaction history of what has thus far occurred to the operator terminal (column 3, lines 15-34). Since Abdoh, Peters et al and Gisby are all directed toward automated survey systems, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to include the transfer of information from the interactive voice response system to the live

operator based on some criteria to achieve the predictable results of providing a seamless survey presentation.

As per **claim 16**, Abdoh teaches an interactive voice response unit that “reads” the questions to respondents, the combination of Abdoh, Peters et al and Mitchell et al does not explicitly teach none of the answers are provided by using a touch-tone system. Gisby teaches an automated survey system wherein interactive voice response is used to collect responses from survey respondents (column 4, lines 4-67). Since interactive voice response units were well known at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the combination to include an interactive voice response unit that records answers given by survey participants in addition to “reading” survey questions as taught in Abdoh. The inclusion of the interactive voice response unit for collecting survey responses yields the predictable result of processing more respondents in shorter amount of time without having to employ mass numbers of live survey collectors.

As per **claim 17**, Abdoh teaches a survey presentation unit for automatically formatting and presenting said survey participant answers as a survey result to a user (column 4, lines 1-16 - reports containing questionnaire results are compiled and presented).

As per **claim 18**, Abdoh teaches an interactive voice response unit that “reads” the questions to respondents, the combination of Abdoh, Peters et al and Mitchell et al does not explicitly teach all of the answers given by the participant are interpreted using automated voice recognition. Gisby teaches an automated survey system wherein interactive voice response is used to collect responses from survey respondents (column

4, lines 4-67). Since interactive voice response units were well known at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the combination to include an interactive voice response unit that records answers given by survey participants in addition to "reading" survey questions as taught in Abdoh. The inclusion of the interactive voice response unit for collecting survey responses yields the predictable result of processing more respondents in shorter amount of time without having to employ mass numbers of live survey collectors.

As per **claims 19-21**, the combination of Abdoh, Peters et al, Gisby and Mitchell et al teaches a computer system for performing the method of claims 15-18. Therefore the same rejection as applied to claims 15-18 are also applied to claim 19-21.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamlin et al, US 6,477,504 – method and apparatus for automating the conduct of surveys over a network system

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JL/  
11/6/07



TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600